



OFFICE *of the* ATTORNEY GENERAL
GREG ABBOTT

June 23, 2003

Ms. Denise G. Obinegbo
Open Records Specialist
Richardson Police Department
P.O. Box 831078
Richardson, Texas 75083-1078

OR2003-4275

Dear Ms. Obinegbo:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 183247.

The Richardson Police Department (the "Department") received a request for information concerning a domestic dispute involving a named individual and occurring on a specified date at a certain address. The requestor also seeks information pertaining to any and all police responses to the same address since the specified date. You have released some of the requested information to the requestor; however, you assert portions of the submitted information are excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have reviewed the information you submitted and we have considered the exceptions you claim.

You assert section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code governs the submitted information pertaining to report number 98-005354. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 encompasses confidentiality provisions such as section 58.007 of the Family Code. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007. The relevant language of section 58.007(c) reads as follows:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

- (1) if maintained on paper or microfilm, kept separate from adult files and records;
- (2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and
- (3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapter B.

Fam. Code § 58.007(c). The submitted documents contain law enforcement records that indicate the named suspect is a juvenile who allegedly engaged in delinquent conduct that occurred after September 1, 1997. Based on a review of the information, we find no evidence that any of the exceptions in section 58.007 apply. Therefore, section 58.007(c) of the Family Code makes this information confidential. Thus, the Department must withhold all information relating to report number 98-005354, which we have marked, under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.

Next, you assert section 552.108 of the Government Code excepts report numbers 98-030141 and 03-015307 from required public disclosure. Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. *See Gov't Code § 552.108(a)(2)*. A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You inform us, and our review of the submitted information confirms, report numbers 98-030141 and 03-015307 relate to criminal investigations that did not result in conviction or deferred adjudication. Therefore, we conclude section 552.108(a)(2) applies to these reports.

However, section 552.108 does not except basic information about an arrested person, an arrest, or a crime. *Gov't Code § 552.108(c)*. We believe such basic information refers to the information held to be public in *Houston Chronicle Publishing Company v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976), which includes a detailed description of the offense. Thus, with the exception of the basic front page offense and arrest information, the Department may withhold report numbers 98-030141 and 03-015307 from disclosure based on section 552.108 of the Government Code. The Department has the discretion to release all or part of the remaining information that is not otherwise confidential by law. *Gov't Code § 552.007*.

Last, as you note, the submitted documents contain information subject to section 552.130 of the Government Code. This provision excepts from public disclosure information relating to a driver's license or a motor vehicle title or registration issued by an agency of this state. *See Gov't Code § 552.130*. In this case, the submitted information contains a license plate

number and an associated expiration date. Therefore, the Department must withhold the information pertaining to motor vehicle records, some of which you have redacted, under section 552.130 of the Government Code. We have marked additional information the Department must withhold under this provision.

In summary, the Department must withhold all information relating to report number 98-005354, which we have marked, under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. With the exception of basic information, the Department may withhold report numbers 98-030141 and 03-015307 from disclosure based on section 552.108 of the Government Code. The Department must withhold the information pertaining to motor vehicle records, which either you have noted or we have marked, under section 552.130 of the Government Code.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Christen Sorrell". The signature is fluid and cursive, with the first name "Christen" written in a larger, more prominent script than the last name "Sorrell".

Christen Sorrell
Assistant Attorney General
Open Records Division

CHS/sdk

Ref: ID# 183247

Enc: Submitted documents

c: Mr. Donald Lambert
201 10th Street
Terrell, Texas 75160
(w/o enclosures)